

JPL/HKR

29-356-8-158

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KIM MILLER-HUGGINS, individually and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	Court No. 09 C 3774
)	
v.)	Judge Hart
)	
MARIO'S BUTCHER SHOP, INC.,)	Magistrate Judge Ashman
)	
Defendants.)	

MOTION TO APPROVE PROPOSED NOTICE TO THE CLASS

Defendant MARIO'S BUTCHER SHOP, INC. ("MARIO'S"), by its attorneys John P. Lynch, Jr., Hilary K. Rose, and CREMER, SPINA, SHAUGHNESSY, JANSEN & SIEGERT, LLC, respectfully requests that this Court enter an order approving the parties' Proposed Notice to the Class. In support of this motion, Defendant states as follows:

1. On February 24, 2010 this Court entered an order certifying a class in the above captioned matter as consisting of: "All consumers for whom, after June 3, 2008, Mario's Butcher Shop, Inc. provided a printed receipt at the point of sale or transaction, which displays the expiration date of the person's credit or debit card. Excluded from the class are defendant, employees of defendant, and defendant's parents, successors, subsidiaries, affiliates, and stockholders". (**Document 37**).
2. The order further provided: "By March 19, 2010, the parties shall submit their proposed notice to the class". (**Document 37**).
3. On March 19, 2010, MARIO'S filed an unopposed Motion to Extend Deadline to Submit Proposed Notice to the Class. (**Document 38**).

4. On March 23, 2010, this Court entered an order granting MARIO'S Motion to Extend Deadline to Submit Proposed Notice to the Class. **(Document 41)**.

5. The parties have agreed upon the language of the Proposed Notice to the Class. A copy of which is attached hereto as **Exhibit 1**.

6. The parties have agreed that the notice shall be posted within the confines of MARIO'S.

7. Plaintiff proposes that, in addition to the posted notice, the Proposed Notice to the Class be published in the Chicago Journal or a similar neighborhood-circulated publication.

8. MARIO'S submits that the Proposed Notice to the Class does not need to be published in a periodical and posting the notice in the confines of MARIO'S will be sufficient to notify purported class members.

WHEREFORE, Defendant MARIO'S BUTCHER, INC., prays that this court enter an order approving the parties' Proposed Notice to the Class and permit the parties to be heard on their respective positions relating to the method the Proposed Notice to the Class will be made.

MARIO'S BUTCHER SHOP, INC.

BY: /s/John P. Lynch, Jr.
One of Its Attorneys

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Plaintiffs,)	
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MARIO'S BUTCHER SHOP, INC.,)	Judge Hart
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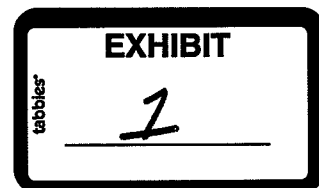
NOTICE OF CLASS ACTION

This important Notice is being given in connection with the lawsuit captioned above, which was filed in the United States District Court for the Northern District of Illinois, and which the Court has determined shall be maintained as a Plaintiff class action on behalf of the class described in this Notice.

This Notice is not an expression of any opinion of the Court about the merits of any claims, or defenses, by any of the parties. It is provided as information about the above captioned lawsuit to persons who may be members of the class on whose behalf the lawsuit has been brought. If you are or were a consumer to whom, after June 3, 2008, Mario's Butcher Shop, Inc. provided a printed receipt at the point of sale or transaction, which displayed the expiration date of your credit or debit card, you may be a member of the class in this lawsuit. This Notice is given to advise you of that fact, and to inform you about the existence of this case so that you can decide what, if any, steps you may wish to take.

WHAT THE LAWSUIT IS ABOUT

This lawsuit alleges that Mario's Butcher Shop, Inc. ("Mario's") violated a federal law called the Fair and Accurate Credit Transactions Act ("FACTA") by providing printed receipts for customers who paid for purchases with a credit or debit card and which receipt displayed the customer's credit or debit card expiration date. The person bringing this lawsuit, Kim Miller-Huggins ("Plaintiff" or "Class Representative") filed a complaint against Mario's in the United States District Court for the Northern District of Illinois, on behalf of herself as well as a class of similarly situated persons. On July 23, 2009, Mario's filed its Answer to the Complaint, denying



substantially all of the material allegations of the Complaint and it denies all liability to Plaintiff and to the Class.

Judge William Hart of the United States District Court for the Northern District of Illinois, Eastern Division, has entered an order, on February 22, 2010, in which the Court certified as a class "All consumers for whom, after June 3, 2008, Mario's Butcher Shop, Inc., provided a printed receipt at the point of sale or transaction, which displays the expiration date of the person's credit or debit card. Excluded from the class are defendant, employees of defendant, and defendant's parents, successors, subsidiaries, affiliates and stockholders." The Court has appointed James X. Bormes of The Law Offices Of James X. Bormes as counsel for Plaintiff and the Class. **Thus, for purposes of the class described in this notice, you are a Class Member if you fall within the description of the certified Class set forth in the preceding paragraph.**

YOU DO NOT NEED TO DO ANYTHING TO REMAIN A MEMBER OF ANY CLASS. If you are a class member and do not request to be excluded from the class, you may receive the benefit of, and you will be bound by, any judgment or settlement favorable to the class. If you choose to remain in the case as a class member, you will not have to pay any of the costs of litigation, and you will not be required to make any payments for expenses or attorneys' fees relating to the Class Action. To remain a member of the class, no further action is required of you at this time. If you wish to be excluded from any of the classes, you will not be entitled to obtain any benefit which is conferred upon class members, and you will not be bound by any judgment or settlement for the class. If you decide that you wish to be excluded from the class, you must submit a written request for exclusion. Any such request must be addressed to The Law Offices of James X. Bormes, c/o James X. Bormes, 8 South Michigan Avenue, Suite 2600, Chicago, Illinois 60603, , and must refer to "Miller-Huggins v. Mario's Butcher Shop, Inc., Case No. 09 C 3774." In order to be valid and effective, a written request for exclusion must be postmarked no later than May 5, 2010, and must be received at The Law Offices of James X. Bormes, c/o James X. Bormes, 8 South Michigan Avenue, Suite 2600, Chicago, Illinois 60603, no later than May 10, 2010. The written request to be excluded must include your full name, address, the last four digits of your credit card, a statement that you wish to be excluded from any class in "Miller-Huggins v. Mario's Butcher Shop, Inc., Case No. 09 C 3774", and it must be signed by you. All class members are already represented by lawyers for the class in this Class Action. You may, but are not required to, enter an additional appearance in the Class Action for yourself individually, through counsel of your own choosing, and at your own expense. Otherwise, you will be represented in the Class Action by counsel who has already been appointed by the Court to represent the class, and who is also representing the named Plaintiff in this case.

AVAILABILITY OF FILED PLEADINGS

This description of the litigation and the information set forth in this notice are general and do not cover all of the issues, proceedings and terms. To see the complete file, including a copy of the Complaint and Order of Class Certification, you should visit the office of the Clerk of the United States Northern District of Illinois, Eastern Division, 219 South Dearborn Street, Chicago, IL 60604. The Clerk will make the files relating to the lawsuit available to you for inspection and copying at your own expense. In addition, you may contact Class Counsel for copies of the pleadings and certain other filings in this litigation.

INQUIRIES

Any questions you or your attorney have concerning this notice should be directed to Class Counsel, at the address set forth below. Please include the case name and number ("Miller-Huggins v. Mario's"), your name and your current return address on any e-mails and on any letters of inquiry (and not just the envelopes).

Dated: April 2, 2010

Entered by Order of Judge William T. Hart:

James X. Bormes, Attorney for the
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DO NOT CONTACT THE COURT REGARDING THIS NOTICE.